

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PAO VUE,

Plaintiff,

OPINION AND ORDER

v.

19-cv-262-wmc

THOMAS O'NEILL and
KEITH BARZYCK,

Defendants.

Pro se plaintiff Pao Vue is proceeding in this lawsuit against defendants Thomas O'Neill and Keith Barzyck, on Eighth Amendment excessive force claims that occurred when Vue was incarcerated at the Waupun Correctional Institution ("Waupun"). Before the court is defendants' motion to dismiss for improper venue or transfer venue to the Eastern District of Wisconsin. (Dkt. #24.) Since venue in this district court is improper, the court will grant defendants' motion and transfer this case to the Eastern District of Wisconsin.

OPINION

Venue is proper where defendants to a lawsuit reside or where the events giving rise to the claim took place. 28 U.S.C. § 1391(b). "The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).

Neither defendant resides in the Western District of Wisconsin, nor did they reside in this district at the time plaintiff filed his complaint. (O'Neill Decl. (dkt. #25) ¶¶ 1-2;

Barzyck Decl. (dkt. #26) ¶¶ 1-2.) Moreover, the events giving rise to Vue's claims in this lawsuit occurred at Waupun Correctional Institution in Waupun, Wisconsin. Waupun, Wisconsin is located in Dodge County and Fond du Lac County, both of which are in the Eastern District of Wisconsin. 28 U.S.C. § 130(a).

Vue opposes the motion because he currently resides in the Western District of Wisconsin. However, as noted above, the district in which the plaintiff resides is *not* one of the locations in which venue is proper. Finding venue improper in the Western District of Wisconsin, the court further concludes that transfer, rather than dismissal, serves the interest of justice. Therefore, the court will grant defendants' motion and transfer this case to the Eastern District of Wisconsin.

ORDER

IT IS ORDERED that:

1. Defendants' motion to dismiss or transfer venue (dkt. #24) is GRANTED.
2. This case is TRANSFERRED to the Eastern District of Wisconsin.

Entered this 26th day of April, 2022.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge